

JEFFERSON COUNTY COMMISSIONERS
COURTHOUSE, BOX H
BOULDER, MT 59632
PHONE 406-225-4025
FAX 406-225-4148

KEN WEBER, CHAIR

CHUCK NOTBOHM

TOM LYTHGOE

**PROCEEDING OF THE BOARD OF COMMISSIONERS
COUNTY OF JEFFERSON, STATE OF MONTANA
August 14, 2007**

Present: Commissioners Lythgoe, Notbohm and Weber; Harold Stepper and Mike Hoffman, County Planners; Matt Johnson, County Attorney; Tara Mastel, JLDC; Barbara Miller, National Affordable Housing Network; Jan Anderson, *Boulder Monitor/Jefferson County Courier*; Marga Lincoln, *Helena Independent Record*; Gordon Tallent, Deborah Jones, Joe Schmaus, Jack Frazier, Ernie Kenison, Thomas Poulet, John Mahon, Ken and Marlos Bates, Pam Cushman, Charlene Hall, Bob Marks, Jennifer Wise

MINUTES

Commissioner Lythgoe moved to approve the minutes of July 24th. Commissioner Notbohm seconded. The motion carried.

REPORTS

Receipt of July expense and revenue reports from the Clerk and Recorder.

Receipt of July cash report from the Treasurer's office.

Receipt of A101 regarding bond sale from Treasure's office.

CALENDAR REVIEW

- 8/15 JLDC tour of Ash Grove - 11:00
- JLDC tour of mushroom farm - 1:00
- JLDC meeting - 2:00
- 8/16 Elkhorn Goldfields community meeting - 9:00
- MTAG - 5:00
- 8/21 CTAC - Whitehall - 10:00

COMMISSION REPORTS

LIBRARY BOARD

Commissioner Weber reported that he attended the Library Board meeting in Clancy on the 9th. They are still trying to decide what to do with a north-end library, use the existing space or find a different one. They discussed a phone survey to get public input.

ELKHORN CEMETERY

Commissioner Notbohm reported that he went with Mike Waite and other staff of Denny Rehberg's office to view the Elkhorn Cemetery. They walked the area and Commissioner Notbohm explained the history.

ELECTED OFFICIAL/DEPARTMENT HEAD CONCERNS

Commissioner Notbohm stated that he would like to agendize further discussion of the land swap. Commissioner Weber stated that they could wait until the other appraisal is received. Commissioner Notbohm stated that this isn't necessarily related to the appraisal. The discussion was put on the August 28th agenda.

CORRESPONDENCE

Commissioner Weber stated that he had received an e-mail from a past president of MACo urging support of rural development projects and programs outlined in the 2007 Farm Bill. He would like the Commissioner's okay to send a letter of support from the Commission. Commissioner Weber moved to enter our support. Commissioner Lythgoe seconded. The motion carried.

SUBDIVISION REVIEW

SHEEP MOUNTAIN 1, 2, 3 AND 4 MINOR SUBDIVISIONS - REQUEST FOR EXTENSION OF PRELIMINARY PLAT APPROVAL / DISCUSS AND DECIDE ON DEVELOPER/ PLANNING DEPARTMENT REQUESTED CHANGES TO PRELIMINARY PLAT CONDITIONS OF APPROVAL, SPECIFICALLY VARIANCE FOR SHEEP MOUNTAIN AND OHIO GULCH ROADS

Matt Johnson, County Attorney, stated that he attended a meeting a couple weeks prior with Joe Schmaus, Jack Frasier, Harold Stepper, Joe Carter and legal council to discuss these issues. They decided that they really can't do much until the developers get the right-of-way from the BLM. They did develop a request for a variance. Matt stated that one reason Joe is okay with the road staying at 18 feet and being upgraded as it only goes to two houses. Regarding the grade, they don't have an engineered percent of grade yet. Joe will need to go out with the developers and review. The road is not to be used by many households, so Joe feels that he can live with the width and grade.

Harold stated that they are all familiar with the project; he suggests that all four subdivisions be given a one-year extension. He is not requesting that any variances be addressed at this time. A new staff report will be drawn up at a later date and the variances will be incorporated at that time.

Tom Poliant stated that he is the attorney for Mr. Frazier. He understood from Matt that all the variances were to be requested with the exception of the grades. They are requesting a time extension, a variance on width, a variance not to improve Ohio Gulch as it is only emergency access. They will wait to request a variance regarding the grades until they get the engineered report and the review by Joe. Commissioner Notbohm stated that there are some concerns with granting a variance without an engineered plan. They would also be putting the cart before the horse until they get an okay from the BLM. He has no problem with granting an extension. He asked how the engineer's report is progressing, noting that the road grades are a concern. Jack Frazier stated that he had the surveyor do a GPS survey the week prior. They are asking for a variance knowing that they are going to need to fix the road when they are ready to go. At the public meeting conducted by the BLM, Rick Hotaling stated that it would probably be the end of August before the right-of-way decision is made. He has heard that the right-of-way is being written up. Commissioner Notbohm reiterated that the grades do concern him, and he is not sure of the distance they cover. Jack stated that at the meeting with county staff, all came to an agreement. The roads were measured and most were 18 feet. The switchback seems to be the concern, but this area measures 60-feet wide. Their intentions, as developers, is to do this right; they just need a variance for a few areas.

Commissioner Lythgoe stated that he is confused. The County Attorney recommended one thing, the Planner another and the developer's attorney something different. Jack stated that so many things are changing. Joe Schmaus stated that to clarify, there is obviously some confusion although at the meeting some things were agreed to. He showed the Commissioners the plans that were given to Joe Carter and Harold and explained them. Commissioner Notbohm stated that they all know that they are to have a decision from BLM at the end of the month, so he can't see what the rush is at this point. Jack agreed. He doesn't want to spend a lot of money on engineering and then have something happen with the right-of-way. The BLM has had some hang up, and there is no need for this today.

Commissioner Lythgoe moved to grant a one-year extension on preliminary plat approval for Sheep Mountain 1, 2, 3, and 4 subdivision. Commissioner Notbohm seconded. Commissioner Weber stated that he is more in favor of new preliminary plat documents being drawn up and some of the confusion being addressed in that document. Joe Schmaus stated that the rules have changed since they started this process. It would have eased a lot of confusion if they had submitted later. Commissioner Notbohm asked Commissioner Weber to clarify his concern. Commissioner Weber stated that he would be more comfortable with having the developers re-submit under the new rules. Commissioner Lythgoe asked if the fees would be waived. Commissioner Weber stated that he would be fine with that. Commissioner Notbohm agreed that it is easier to have the engineered plans first, but he doesn't feel the need to go so far as to start

over completely. Jack stated that he paid the subdivision fees over a year ago, and he just wants to get finished. He would like to continue on with the extension. Joe Schmaus noted that the BLM didn't require any engineered prints until after the initial award was granted.

Bob Marks stated that he shares the confusion. There are a couple things to consider. If a variance needs to be addressed, it is important to publically notice what the variances are. He has never seen the map that was presented at this meeting or an engineered report. It would be worthwhile, if a new submission is submitted, that the variances be incorporated. This would make it easier to review and comment.

Commissioner Weber asked the developer if, after hearing the comments, he still wants to pursue an extension or if he would like to start over. Jack stated that he would like the one year extension.

The motion carried with Commissioners Notbohm and Lythgoe voting aye and Commissioner Weber voting nay.

Regarding the variances, Commissioner Weber asked Harold if it is his intention not to deal with the variances until the right-of-way decision is received from the BLM. Harold stated that this is correct. What has been presented by Joe Schmaus was done by a surveyor, and they need an engineered report. Cuts and fills, etc., could affect the outcome, and it would be better to deal with the variances all at once. Matt stated that right now, there is no Sheep Mountain Road, there is no right-of-way. What was discussed in the meeting with the developers was the existing part for the two lots. Also, Joe Carter is not here to speak regarding the grades. He needs to go on-site, possibly with the Commissioners, to view. He wanted to at least provide for the extension and deal with the variances later. Regarding Mr. Marks' request for more information, he noted that it is difficult to everything into an agenda. It may be best to discuss at this time and make a decision at a later meeting. The information can be placed on the Clerk and Recorder's counter.

Jack thanked the Commissioners for the extension. Regarding the variances and the public input, he noted that the BLM has already had a scoping meeting and the variance would be on BLM property. As to the variance in or out of the right-of-way, they will give whatever is necessary to get the road done. Commissioner Weber stated that the BLM has their process to follow, but noted that the County also has a process to follow. Jack stated that he understands this. The BLM right-of-way will be open-ended as to where the road needs to be. He doesn't see the need for public input at this point; it only causes confusion. Bob Marks stated that he doesn't think that people have had an opportunity to see what the variances are. He suggested that maybe a special meeting to allow people to review the variances would be appropriate.

Commissioner Weber stated that the staff recommendation is to wait until all variances can be reviewed at the same time. Commissioner Notbohm moved to hold off on the variances until the right-of-way issue has been decided. Commissioner Lythgoe seconded. The motion carried.

FINAL PLAT APPROVAL - BATES MINOR SUBDIVISION

Mike Hoffman, County Planner, presented his staff report on this minor subdivision south of Whitehall. The parcel contains 8 acres, to be divided into three lots ranging in size from one to four acres. A variance has been granted for one point of ingress/egress and an approach permit has been filed with MDT. Joe has approved all upgrades, and cash-in-lieu of water storage in the amount of \$1,178.66 has been given to the fire department. Mike recommended that final plat approval be granted. Mike also noted that he received a damage claim from Qwest about 15 minutes prior to the meeting. Commissioner Weber asked if it has been passed to Matt. Mike stated that he hasn't had the opportunity to give it to Matt yet. Commissioner Weber stated that he doesn't know that it pertains to final plat. Mike stated that it is his understanding that Qwest is pursuing damages from the County. Commissioner Notbohm asked if the County did the damage. Mike stated that we did not. Commissioner Weber asked who owns the right-of-way. Mike answered that he is not sure. Commissioner Weber stated that he thinks that this is a separate issue from the subdivision, and that the Bates should pay for the damages.

Commissioner Lythgoe moved to grant final plat approval. Commissioner Notbohm seconded. The motion carried with Commissioner Weber abstaining, as he has had prior conversations with the developer.

ITEMS FOR COMMISSIONERS ACTION OR REVIEW

DISCUSS AND DECIDE ON SUPPORT OF BOULDER AFFORDABLE HOUSING PROJECT

Tara Mastel, JLDC, stated that she was before the Commission at the previous meeting to request additional support for site clean-up. She stated that the Commission has been very generous already, and they were asking for another \$11,930.00. Since the last meeting, there is a need to add an additional \$2,200 for the water/sewer study required by the city. They are now asking for a total of \$14,138.

Barbara Miller, National Affordable Housing Network, stated that this figure came about at the City Council meeting the previous night. The water and sewer study was originally going to cost \$13,750, but they have negotiated this cost down to \$2,200. They will do a review of NAHN's engineer's report. There will be no significant impact from the new homes. Harold stated that they all thought that \$13,750 was ridiculous. In talking to the engineer, that price was for a complete study, but they don't need to do a study of the entire town, just the one block. The engineer may be able to get to this by the end of the week, then it needs to get to DEQ as soon as possible. The project will soon be bumping up against the no-dig date. Commissioner Notbohm asked if the County would be getting any money back. Barbara stated that they may be able to get some money back. They are not able to proceed at this point without the county. They are not approved to spend any money until DEQ approval is received. She stated that the county staff have been invaluable, and noted that they will not be backing off from this project; they are very committed.

Commissioner Lythgoe moved to allow claims to be submitted through the JLDC on behalf of

NAHN, up to \$14,138, with the money to come from the north-end metal mines money. Commissioner Notbohm seconded. Commissioner Notbohm asked if they feel any more money will be requested to keep the project afloat. Barbara stated that the cleanup was critical to allow the project to move forward. Commissioner Weber asked if this will get the project done. Barbara stated that once they get city approval to go to DEQ, they can then start moving forward and applying for other funding. Their main concern is that the mortgages already approved be able to go forward. The motion carried.

DISCUSS AND DECIDE ON FUNDING REQUEST FROM JEFFERSON COUNTY SPAY/NEUTER CLINIC

Charlene Hall stated that their group had previously submitted a request for money for the next spay/neuter clinic. The first clinic was free, but they will need to cover the cost of the second and third clinics. They also want to incorporate vaccinations at the clinics. At the last clinic, they treated 79 animals, which included 22 female dogs and 22 female cats. Charlene stated that they have been, and will continue to hold fund-raisers.

Commissioner Weber read the letter of request (on file in the Clerk and Recorder's office). They are requesting \$2,000, with any funds over and above the cost of the second clinic to roll over to the cost of the third clinic.

Commissioner Notbohm moved to give support for the requested amount of \$2,000. Commissioner Lythgoe seconded. Commissioner Weber asked what funding source to use. Commissioner Notbohm stated that there has been money budgeted in the Sheriff's office budget for Lewis and Clark County. He feels that it would be appropriate to use that money. Commissioner Weber stated that this makes sense; Lewis and Clark County is not interested in it at this time. Commissioner Lythgoe stated that he feels that they need to deal with Lewis and Clark County at some point; there are Jefferson County residents that take animals to Lewis and Clark County. Commissioner Weber agreed that this will need to be discussed at some point. The motion carried.

RESOLUTION 26-2007 CREATION OF BIG DIPPER DRIVE RID/RMD

Commissioner Weber stated that Bonnie is waiting for a call from the engineer on the percentages, and called for comments.

Gordon Tallent stated that he uses about 300 feet of Big Dipper before turning off onto the road he lives on. He uses a small portion and will pay the same amount as people who live on the road. This is his concern.

Deborah Jones asked what they are going to do with the ditch on Starwood Drive; if they are going to continue to allow it to erode. Commissioner Weber stated that part of the improvements on Big Dipper will be culverts and improvement of problems like this. Commissioner Lythgoe stated that he is not sure if this is part of the Big Dipper project. However, he has talked to Joe Carter about this, and he is aware that it needs to be fixed.

Commissioner Weber read the resolution, (on file in the Clerk and Recorder's office). There were 14 protests, representing 14 lots, which represents 42.8% of the total costs of the improvements, 42.4% of the total number of landowners and 43.5% of the property value. Commissioner Weber stated that the creation of the district passed.

Commissioner Lythgoe moved to adopt Resolution 26-2007. Commissioner Notbohm seconded. The motion carried.

MEETING ADJOURNED

ATTEST:

**BONNIE RAMEY
CLERK AND RECORDER**

KEN WEBER, CHAIR

TOMAS E. LYTHGOE, COMMISSIONER

CHUCK NOTBOHM, COMMISSIONER